

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11745RWZ

BARBARA DEIGHTON HAUPT, Trustee of  
BD REALTY TRUST,

Plaintiff

v.

TOWN OF WAREHAM acting by and  
through the BOARD OF SELECTMEN OF  
THE TOWN OF WAREHAM, and the  
BOARD OF SELECTMEN OF THE TOWN  
OF WAREHAM,

Defendants

DEFENDANTS' MOTION FOR A  
VIEW OF THE SUBJECT PROPERTY

Now come the defendants, Town of Wareham acting by and through the Board of Selectmen of the Town of Wareham, and the Board of Selectmen of the Town of Wareham, and hereby move and request that the Court and Jury take a view of the property that is the subject of this litigation. As grounds therefor, the defendants state that the Court's and the Jury's review in this matter will depend upon the assessment of testimony and evidence regarding the natural features of the subject property.

Indeed, the prominent issue confronting the jury in this matter will be whether the highest and best use of the property as proposed by the plaintiff is possible given the vast wetland resource areas that existed on the site at the time of the taking. In presenting its case, the defendants will be presenting information that will describe the unique environmental features of the site. A view of the property will allow the jury and Court to fully understand the testimony presented by both the plaintiff's wetland expert and the

defendants' wetland expert. Accordingly, the Defendants submit that the Court and the Jury would greatly benefit from the requested view.

The reason for the filing of this motion at such a late date is because the plaintiff has just recently notified the defendants that she did not want to conduct a view of the Property. Indeed, throughout the course of this litigation and discovery, plaintiff has represented to the Court and the defendants that a view would be conducted. The defendants have relied upon these representations. It was not until March 29, 2007 after the close of business that plaintiff notified the defendants, by voice mail, that she would no longer be requesting a view and intended to oppose any request by the defendants.

WHEREFORE, the Defendants respectfully request that the within motion be allowed and that the Court take a view of the subject property in Wareham Massachusetts.

Defendants,

By their attorneys,

/s/Jeffrey T. Blake

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